DEPARTMENT OF HEALTH & HUMAN SERVICES
Health Care Financing Administration

Center for Medicaid and State Operations
Family and Children_s Health Programs Group
Division of Integrated Health Systems
7500 Security Boulevard
Baltimore, MD 21244-1850

Mr. Robert T. Maruca
Director
New Mexico Human Services Department
Medical Assistance Division
Santa Fe, New Mexico 87504-2348

Dear Mr. Maruca:

You have requested that the Health Care Financing Administration (HCFA) reconsider its
October 19, 2000 decision to disapprove New Mexico=s request for a two year renewal of waivers under section 1915(b) of the Social Security Act (the Act) to operate the behavioral health component of its Salud! waiver program. While there is no provision for reversing HCFA=s action in response to New Mexico=s original request, we are interpreting your letter as a new request for a modification of its existing Salud! program to include behavioral as well as physical health (as originally requested in the State=s renewal request).

After careful reconsideration of the documentation provided by the State in connection with its initial request, including the terms and conditions the State is willing to accept, we are pleased to inform you that we are approving New Mexico=s request to include behavioral health services under its Salud! Program. This authority will allow the State to require Medicaid beneficiaries to be mandatorily enrolled in managed care organizations or behavioral health organizations which will be responsible for providing, prior authorizing, or making referrals for all behavioral health care services. This approval provides for waivers of the following sections of the Act: 1902(a)(1) Statewideness, 1902(a)(10)(B) Comparability of Services, and 1902(a)(23) Freedom of Choice in order to permit New Mexico to continue to operate its managed care program.

This decision was not taken lightly. We considered a number of possibilities for addressing the serious deficiencies in the New Mexico waiver, including maintaining the original schedule of moving to fee-for-service or extending the waiver with terms and conditions. The advantage of a waiver extension with

strong terms and conditions is the provision of a strong set of beneficiary protections designed to ensure access to appropriate care that would not be present in a fee-for-service system.

This decision is based on evidence submitted to HCFA demonstrating that the State=s waiver program is consistent with the purpose of the Medicaid program, will meet all statutory and regulatory requirements for assuring beneficiaries= access to care and quality of services, waiver cost-effectiveness for section 1915(b) programs, and will not restrict family planning or emergency services. Approval of this request is also contingent upon New Mexico arranging for an independent evaluation of the overall waiver program with special emphasis on these factors to be submitted 3 months prior to the end of the waiver period.

Approval of this waiver is also conditioned upon assurances made by New Mexico concerning the behavioral health portion of the Salud! Waiver in connection with its initial waiver renewal request, and is subject to the attached behavioral health terms and conditions. This modification is approved effective March 1, 2001 through October 21, 2002.

I have based my decision on the submitted assurances that the modified Salud! program will continue to be a cost-effective and efficient means of providing health care services to Medicaid beneficiaries in the State of New Mexico.

If you have any questions regarding this letter, you may contact Mr. Jack Allen in the Dallas Regional Office at 214-767-4425. I hope that you have continued success in administration of New Mexico=s Salud! Managed Care Program.

Sincerely,

Mike Fiore
Director

cc: Calvin Cline, Associate Regional Administer
Dallas Regional Office

Attachment

NEW MEXICO BEHAVIORAL HEALTH TERMS AND CONDITIONS

MonitoringXThe purpose of the monitoring terms and conditions are to ensure that Medicaid beneficiaries have access to appropriate behavioral health care and services, using both State mechanisms and those of an independent Peer Review Organization (PRO). Within 30 days of receipt of this approval letter, the State will submit to HCFA a draft indicating how it will address each of the terms and conditions specified below, with a more detailed plan to be forwarded to HCFA within 60 days. HCFA will review the State=s initial and ongoing monitoring efforts to ensure compliance with the terms and conditions and waiver authorities granted.

Review of Service Authorization Decisions

- The State will contract with an independent organization, such as a PRO or similar entity, to review BHS authorizations. The review will be done by qualified health care professionals with experience in the diagnosis and treatment of behavioral health disorders. The State=s plan will describe how the contractor will operate independently from the State Medicaid agency and the managed care organizations.

- The contractor will perform audits of a statistically valid sample of reductions, terminations, and denials of BHS decisions to determine if authorized service levels are appropriate with respect to accepted standards of clinical care. The first audit will be conducted in May 2001, and bimonthly thereafter. Written reports will be submitted to both the State and HCFA.

- The State shall take timely corrective action with the MCOs based on the audits, as appropriate. The State will inform HCFA of the corrective actions taken including steps to ensure the MCOs make the needed corrective actions. In addition, the State will inform the Advisory Committee (as described below) of the findings and corrective actions taken.

Beneficiary and Provider Communications

- By May 1, 2001, the State will notify beneficiaries and providers of separate Statewide toll free numbers to report concerns related to behavioral health service authorization denials or reductions. Information and summary statistics about problems reported via the toll free number will be reported to HCFA monthly in an electronic format.

- The State= s plan shall describe in a protocol for addressing all concerns in a timely manner, and work with the MCOs to resolve any problems when possible. The plan shall describe how the beneficiary will be informed of the MCO=s grievance and appeal process as well as the State=s fair hearing procedures, if the State or MCO cannot resolve the matter in a manner satisfactorily to the beneficiary.

- The State will submit to HCFA a monthly report of hearings filed, related to behavioral health services, and their disposition beginning June 1, 2001 and monthly thereafter. Grievance and appeals involving emergency services as certified by a qualified provider must be reviewed within 72 hours from the time of the request.

- The State will establish, by July 1, 2001, an ombudsman program to act as an intermediary and advocate for beneficiary concerns related to behavioral health services. The State=s plan shall describe the function of the ombudsman, the methods by which the ombudsman shall solicit complaints and suggestions from individual beneficiaries and from beneficiary groups and other stakeholders. The plan must specify the appropriate systems are in place for ensuring such complaints and suggestions are considered and resolved and addressed in an appropriate fashion.

- The State will develop by no later than July 1, 2001, and conduct no later than January 1, 2002, a separate survey for beneficiaries with behavioral health needs. The State may use the MHSIP survey document or other survey tool. The survey document will address access to behavioral health services and beneficiary satisfactions with the managed care delivery system. In addition, the survey should also address the appropriateness of prescriptions obtained.

Early Warning System

- The State will establish a system for tracking and reporting, on a quarterly basis, key variables of program performance related to behavioral health services. The State should consider using the Early Warning System developed by HCFA and the Substance Abuse and Mental Health Administration (SAMHSA) for tracking managed care variables related to behavioral health, or the State may develop an alternative system subject to HCFA approval. The Early Warning System or alternative system shall be established by July 1, 2001.

- The State will involve stakeholders in considering the key variables of program performance to be included in the tracking system, and share quarterly reports of the results of

the system variables with HCFA and the appropriate stakeholders, including beneficiaries, families of beneficiaries, providers, and other interest groups.

- The State will ensure that adequate resources are in place to maintain the system.

Network Capacity

- The State plan shall ensure that each MCO provides Geo-Access or equivalent reports to the State on the network capacity of behavioral health providers and facilities on a quarterly basis beginning July 1, 2001. The State will provide HCFA a copy of the reports and their analysis of the network capacity for each of the MCOs on a quarterly basis. The State=s analysis will reflect an unduplicated count of network providers and facilities, and their capacity to provide care and services to beneficiaries.

- The State will monitor, on a quarterly basis, the MCO staff credentials and MCO staff turnover of the providers furnishing behavioral health services. The State will provide a summary report to HCFA on this activity on a quarterly basis.

- If HCFA determines, after discussions with the State, that network capacity is below reasonable standards in any area of the State, based on the customary capacity standard in that area, the State shall permit beneficiaries to go out of network for behavioral health care and services in that particular area, until the State can demonstrate to HCFA that the network capacity complies with the appropriate standard for that area.

Redesign of the Behavioral Health SystemXThe goal of the redesign of the behavioral care system is, based on stakeholder input, to establish a system which addresses the concerns of beneficiaries and providers that have been raised under the current system.

- The State will establish an Advisory Committee comprised of beneficiary, provider, and other representatives to assist the State in developing a modified design for a managed

behavioral health program. The role of the panel is to assist the State in addressing the concerns that have been raised under the current system and to provide ongoing input and recommendations for ways to redesign that system. The results of the monitoring activities described aboveXfrom the review of the Service Authorization Process, toll free number call data, ombudsman reports, beneficiary surveys, early warning system resultsXwill be reported to and considered by the panel.

- The goal of the redesign effort is to develop a new program design that will address concerns that have been raised under the current system.

- The State, with the assistance of the Panel, will implement a public process for the involvement of relevant parties (for example, beneficiaries, family members of beneficiaries, advocates, the State=s Juvenile Justice System, the State=s Children, Youth, and Families Department, the State=s Department of Health, providers, and MCOs,). The State will seek the participation of these parties during the development and ongoing operation of the behavioral health program.

- As part of the redesign effort, the State will specify how it will reduce the administrative layers in the current system (such as eliminating some of the layers in the current system or by establishing a separate carve-out system, a regionally-based program, or by some other design), how it will develop standard service authorization forms and standard credentialing forms, how it will ensure appropriate funding for behavioral care services directly to behavioral health providers, how it will ensure coordination of behavioral health services with those provided by its sister agencies, and address other concerns raised by stakeholders.

- As a part of the redesign, the State will ensure at least 85 percent of the payments made to MCOs for behavioral health care and services will be paid to behavioral health providers for beneficiary behavioral health care and services. The State will conduct annual audits of the behavioral health payments under the current behavioral health care system with the next report due to HCFA by July 1, 2001. With ensuing audits, if payments fall below the 85 percent level in

any quarter, the State must provide a plan of corrective action to HCFA within 30 days.

- The State will review the Statewide availability of community-based services for adults with serious mental illness and children with serious emotional disturbance. The review will include a plan for enhancement of community-based capacity, as appropriate.

- The State will specify to HCFA the adequacy of State resources for the Advisory Committee, including staffing, travel budgets, and any necessary contract funding to ensure the appropriate construction and monitoring of the new system.

- The State will provide HCFA a timetable for the redesign effort within 60 days of the approval letter.